

Sec. 3-9-10. Legal Nonconformities

(a) *Intent.* At the time the ordinance from which this Chapter derives becomes effective or is amended, there may exist lots, structures, uses of land or water or characteristics of use which were lawful prior to the adoption or amendment of the regulations herein, but are prohibited, regulated or restricted by these regulations or amendments thereto. It is the intent of these regulations that nonconformities shall not be enlarged, expanded, intensified or extended, nor shall they be used as a basis for the addition of other structures or uses otherwise prohibited in the same district.

(b) *Continuation of Nonconformity.*

(1) A lot, use, building or structure lawfully in existence on the effective date of the ordinance from which this chapter derives which is made nonconforming by the regulations herein or an amendment thereto may be continued except as otherwise provided by these regulations.

(2) Disaster recovery on the bridgeless barrier islands. Following a natural disaster, as determined by the BCC, a structure that was legally nonconforming at the time of the disaster may be replaced or restored on the original footprint. There shall be no increase in square footage or residential density beyond what originally existed. All construction shall be in compliance with applicable County, State and federal standards.

(c) *Nonconforming Lots of Record.*

(1) "Nonconforming or substandard lot" shall mean a lot of which the area, dimension or location was lawful prior to the adoption, revision or amendment of this chapter and which fails by reason of such adoption, revision or amendment to conform to the requirements for the zoning district in which the lot is located.

(2) For the purpose of this chapter, a lot is "created" on such date that one of the following conditions occur:

a. The date that a deed for said lot is lawfully first recorded in the public records of the County; or

b. The date that a subdivision plat has been lawfully recorded in the public records of the County and the lot is a part of the subdivision.

(3) Nonconforming lots of record may be developed provided:

a. The proposed development meets all the requirements of this Code, except that residential lots which are nonconforming because of width may reduce the required side yard to ten percent of the lot width. No required side yard shall be less than five feet.

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b. The burden of proof to establish that the lot is legally nonconforming and legally existing on October 22, 1990 shall be with the owner.

(4) *Nonconforming Multifamily Lot:* Any lot, platted and recorded on the effective date of the regulation from which this section is derived, which is located in a zoning district that permits multifamily residential dwellings and which exceeds in area the minimum lot size for the district but which does not contain the area required by the district for two dwelling units nevertheless may have constructed on it two dwelling units. Notwithstanding the foregoing, the density shall not exceed the maximum density permitted by the comprehensive plan.

(5) *Restrictions.*

a. No division of any buildable lot may be permitted which creates a lot with width, depth, or area below the minimum requirements stated in this section unless the lot that is below the minimum requirements is for one or more of the following uses: park, open space, or utilities.

b. Contiguous lots of record may be combined and redivided to create larger dimension lots of record as long as such recombination includes the total area of the lots.

(d) *Current Nonconforming Use.* A use that was legally nonconforming on the effective date of these regulations [November 25, 2014], may be continued provided:

(1) No nonconforming use shall be enlarged, intensified, increased or extended to occupy a greater area of land than it occupied on the effective date of this chapter;

(2) No such nonconforming use shall be moved to any portion of the lot or parcel other than that occupied by such use on the effective date of this chapter.

(3) If any nonconforming use ceases for a period to exceed one year for any reason except when governmental action impedes use, any subsequent use shall conform to the applicable district regulations.

(e) *Conforming Uses.*

(1) All uses permitted through the previous zoning districts (1989 version, as may be amended) shall be deemed permitted until such time as a rezoning takes place. All development standards set forth in this Code shall apply to any future development of the property.

(2) All existing uses permitted through the previous zoning districts (1989 version, as may be amended) shall be deemed conforming. All development standards set forth in this Code shall apply to any future development of the property.

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(f) *Nonconforming Structures.* A structure lawfully in existence on the effective date of the ordinance from which this chapter derives which is made nonconforming by the regulation herein or any amendment thereto may be continued provided:

(1) Nonconforming structure may not be enlarged or moved until brought into compliance with this Code, such as through the approval of a Variance or physical modification of the structure unless the enlargement or moving of the structure does not increase the nonconformity..

(2) Only ordinary repairs and maintenance, including repair or replacement of roof covering, walls, fixtures, wiring or plumbing, shall be permitted.

(3) If any such nonconforming structure is destroyed to an extent of more than 50 percent of its replacement cost at the time of destruction as determined by the replacement valuation on the most recent county tax roll, it shall not be reconstructed except in conformity with these regulations.